



ENVIRONMENTAL PROTECTION AGENCY

6560-50-P

[EPA-HQ-OGC-2019-0575; FRL-10001-08-OGC]

Notice of Disclosure Under a Protective Order, In re: Gold King Mine Release, Case No. 1:18-md-02824-WJ (D.N.M.)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of disclosure of potential confidential business information (CBI) in litigation. In accordance with 40 CFR 2.209(d), this notice is being provided to inform affected businesses that, via the U.S. Department of Justice, EPA may disclose confidential business information or information claimed to be confidential business information (collectively referred to as “CBI”) to the parties and the court in *In re: Gold King Mine Release that occurred on August 5, 2015, in San Juan County, Colorado*, Case No. 1:18-md-02824 (D.N.M.), to the extent required to comply with the discovery obligations of the United States in the litigation.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Berg, Office of General Counsel, Solid Waste and Emergency Response Law Office (2366A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; (202) 564-0905; berg.elizabethg@epa.gov.

SUPPLEMENTARY INFORMATION:

Additional Information About Notice of Disclosure Under Court Order

The court in this matter has entered a Protective Order Regarding Confidential Information (entered Dec. 7, 2018, as amended Sept. 30, 2019), under which the parties are required to follow specified procedures in the parties production of documents containing “a trade secret or other

confidential research, development, or commercial information as such terms are used in Federal Rule of Civil Procedure 26(c)(1)(G).” This type of information includes CBI as described in 40 CFR part 2, subpart B.

Examples of information in EPA’s possession that may contain CBI covered by the Protective Order and this Notice are:

- (1) Documents received from businesses under contract with EPA to perform work in connection with the Gold King Mine release that occurred on August 5, 2015 (the Release), including the contractors listed below and any subcontractor or temporary firm that performed work in connection with the Release:
 - a. Environmental Restoration, LLC
 - b. Harrison Western Construction Corporation
 - c. Harrison Western Corporation
 - d. Weston Solutions, Inc.
- (2) Documents obtained from Potentially Responsible Parties (PRPs) associated with the Release.
- (3) Documents created by EPA that contain CBI associated with a contractor, PRP, or other business.

The Protective Order requires that the producing party designate and label any documents containing CBI, and bars public disclosure of any designated CBI by any party to the action except in accordance with the order. With limited exceptions, parties must destroy or return CBI received in discovery within 90 days of the end of the litigation.

Dated: October 2, 2019.

John Michaud,

Associate General Counsel.

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